

State of Kansas – Environmental Tax Credit

Chapter 79.--TAXATION

Article 32.--INCOME TAX

79-32,217. Refineries; credit for certain investments; definitions. As used in K.S.A. 2009 Supp. 79-32,217 through 79-32,220, and amendments thereto:

(a) "Expansion of an existing refinery" means expansion which begins after December 31, 2005, of the capacity of an existing refinery by at least 10% of such capacity.

(b) "New refinery" means a refinery, construction of which begins after December 31, 2005.

(c) "Pass-through entity" means any: (1) Corporation which is exempt from income tax under section 1363 of the federal internal revenue code and which complies with the requirements of K.S.A. 2009 Supp. 79-32,100e, and amendments thereto; (2) limited liability company; (3) partnership; or (4) limited liability partnership.

(d) "Qualified investment" means expenditures made in construction of a new refinery, expansion of an existing refinery or restoration of production of a refinery, for real and tangible personal property incorporated in and used as part of such refinery.

(e) "Refinery" means an industrial process plant, located in this state, where crude oil is processed and refined into petroleum products.

(f) "Restoration of production of a refinery" means restoration which begins after December 31, 2005, of production of a refinery which has been out of production for five or more years. **History:** L. 2006, ch. 209, § 1; July 1.

79-32,222. Same; credit for certain environmental compliance expenditures.

(a) As used in this section:

(1) "Refinery" has the meaning provided by K.S.A. 2009 Supp. 79-32,217, and amendments thereto.

(2) "Qualified expenditures" means expenditures which the secretary of health and environment certifies to the director of taxation are required for an existing refinery to comply with environmental standards or requirements established pursuant to federal statute or regulation, or state statute or rules and regulation, adopted after December 31, 2006.

(b) There shall be allowed as a credit against the tax liability of a taxpayer imposed under the Kansas income tax act an amount equal to the taxpayer's qualified expenditures. The tax credit allowed by this subsection shall be deducted from the taxpayer's income tax liability for the taxable year in which the expenditures are made by the taxpayer. If the amount of such tax credit exceeds the taxpayer's income tax liability for such taxable year, the taxpayer may carry over the amount thereof that exceeds such tax liability for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability, except that no such tax credit shall be carried over for deduction after the fourth taxable year succeeding the year in which the costs are incurred.

(c)(1) To qualify the expenditures of the tax credit allowed by this section, a taxpayer shall apply to the secretary of health and environment for a certification that the

costs were incurred to comply with environmental standards or requirements as specified in subsection (a). The secretary shall prescribe the form of the application, which shall include, but not be limited to, the following information: (A) A detailed description of the refinery project that is the subject of the expenditure; (B) a citation to the applicable federal or state statutes, regulations or rules and regulations which require the environmental compliance; (C) a detailed accounting of the costs incurred for the environmental compliance; and (D) a certification by a responsible official that, based on information and belief formed after reasonable inquiry, the statements and information in the application are true, accurate and complete.

(2) If the secretary of health and environment determines that the expenditures were incurred to comply with environmental standards or requirements as specified in subsection (a), the secretary shall issue a certificate of compliance to the director of taxation.

(3) The secretary of health and environment may adopt rules and regulations to administer the provisions of this subsection, including rules and regulations to fix, charge and collect an application fee to cover all or any part of the department of health and environment's cost of certifying the taxpayer's qualified expenditures under this subsection.

(d) The provisions of this section shall be applicable to all taxable years commencing after December 31, 2006. **History:** L. 2006, ch. 209, § 6; July 1.

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